

Message Text

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PAGE 01 NAIROB 04556 121642Z

64

ACTION EB-11

INFO OCT-01 AF-10 ADP-00 COME-00 LOC-01 EUR-25 ARA-16 IO-13

OIC-04 SIL-01 LAB-06 CCO-00 CIAE-00 OTPE-00 FCC-03

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FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 2745

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FOR EB - ARMSTRONG FROM USDEL - SEARBY

REPEAT FOR COPYRIGHT OFFICE

E.O. 11652: N/A

TAGS:/OEIND, KE

SUBJECT: THIRD COMMITTEES OF GOVERNMENTAL EXPERTS ON PROBLEMS IN
THE FIELD OF COPYRIGHT AND OF PROTECTION OF PERFORMERS,
PRODUCERS OF PHONOGRAMS AND BROADCASTING ORGANIZATIONS
RAISED BY TRANSMISSION VIA SPACE SATELLITES.

1. SUBJECT COMMITTEE MET AT KEFYATTA CONFERENCE CENTER IN
NAIROBI FROM JULY 2 TO 11. GOVERNMENTAL EXPERTS FROM
TWENTY-SEVEN (27) STATES INCLUDING U.S. OBSERVERS FROM TWO
(2) STATES (HOLY SEE AND USSR); OBSERVER FROM ONE (1) IGO (INTER-
NATIONAL LABOR ORGANIZATION); AND OBSERVERS FROM TWELVE
(12) NGO'S PARTICIPATED IN THE MEETING.

2. MEETING WAS OPENED BY THE ATTORNEYS GENERAL OF KENYA WHO
EMPHASIZED THAT THIS WAS AN HISTORIC OCCASION IN THAT THIS WAS
THE FIRST MAJOR INTERNATIONAL CONFERENCE ON INTELLECTUAL
PROPERTY HELD IN KENYA AND THAT IT WAS THE FIRST INTERNATIONAL
CONFERENCE HELD IN KENYATTA CENTRE.

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PAGE 02 NAIROB 04556 121642Z

3. ON PROPOSAL OF KENYA, SUPPORTED BY U.S. AND OTHER DELEGATIONS, HEAD OF FEDERAL REPUBLIC OF GERMANY WAS UNANIMOUSLY ELECTED CHAIRMAN OF THE COMMITTEE. ON PROPOSAL OF AUSTRIA, SUPPORTED BY IVORY COAST, COMMITTEE UNANIMOUSLY ELECTED AS VICE-CHAIRMAN HEADS OF DELEGATIONS OF INDIA, KENYA, AND U.S.

4. THERE WERE NO REPEAT NO POLITICAL PROBLEMS DURING COURSE OF ENTIRE MEETING.

5. DURING DISCUSSIONS PROCEEDING ADOPTION OF THE AGENDA. BRAZIL PROPOSED THAT COMMITTEE ADDRESS ITSELF TO GENERAL DISCUSSION OF PROBLEMS UNDERLYING DRAFT CONVENTION RESULTING FROM SECOND COMMITTEE OF EXPERTS HELD IN PARIS, MAY 1971, AND POSSIBLE ALTERNATIVE MEANS OF SOLVING THE PROBLEMS.

6. IN VIEW OF U.S. OBJECTIVE FOR A SIMPLE, UNCOMPLICATED CONVENTION, USDEL TOOK INITIATIVE TO OPEN GENERAL DISCUSSION. AMONG OTHER THINGS, USDEL POINTED OUT THAT POACHING OF SATELLITE SIGNALS IS NOW TAKING PLACE AND IT IS THUS IN INTEREST OF ALL COUNTRIES TO DEVELOP AN EQUITABLE AND WORKABLE AGREEMENT. WHILE USG FULLY SYMPATHIZED WITH POSITION TAKEN BY MANY GOVERNMENTS CONCERNING PROTECTION OF AUTHORS AND OTHER CONTRIBUTORS TO PROGRAMS, IT TOOK THE VIEW THAT THIS IMPORTANT PROTECTION APPROPRIATELY CAME WITHIN SCOPE OF OTHER INTERNATIONAL AGREEMENTS IN THE FIELD. U.S. THEREFORE URGED COMMITTEE APPROVE ADOPTION OF DRAFT CONVENTION LIMITED TO SIMPLE CONCEPT OF PROTECTION OF THE BROADCAST SIGNAL.

7. AT CONCLUSION OF GENERAL DISCUSSION IT WAS CLEAR THERE WAS SUCH A WIDE DIVERGENCE OF OPINIONS THAT USDEL INDICATED ITS WILLINGNESS TO CONSIDER ALL POSSIBLE COMPROMISES. THEN FOLLOWED A LIMITED DISCUSSION OF PARIS DRAFT CONVENTION UNDER WHICH THERE WOULD BE (A) CONVENTION THAT WOULD PROTECT ONLY SIGNALS CARRYING PROGRAMS CONSISTING OF CURRENT EVENTS, INCLUDING SPORTS, AND (B) SEPARATE PROTOCOL PROTECTING ALL PROGRAM-CARRYING SIGNALS AND SAFEGUARDS FOR RIGHTS OF PERFORMERS AND AUTHORS.

8. WHEN IT WAS STILL CLEAR THAT THERE WAS NO CONSENSUS FOR LIMITED OFFICIAL USE

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PAGE 03 NAIROB 04556 121642Z

EITHER PARIS DRAFT OR AUSTRIAN PROPOSAL, DELEGATION OF MOROCCO (WITH ASSISTANCE IN THE CORRIDORS) MADE A PROPOSAL WHICH WOULD REQUIRE A CONTRACTING STATE TO QTE ENSURE THAT IT IS ILLICIT TO DISTRIBUTE ON ITS TERRITORY PROGRAMME - CARRYING SIGNALS WITHOUT THE AUTHORIZATION OF THE ORIGINATING ORGANIZATION UNQTE. THIS FORMULA WAS GENERALLY ACCEPTABLE. BASIS OF NEW DRAFT CONVENTION IS AN UNDERTAKING BY CONTRACTING STATES TO TAKE APPROPRIATE MEASURES TO PREVENT DISTRIBUTION ON

OR FROM ITS TERRITORY OF PROGRAMME-CARRYING SIGNALS, GOING THROUGH A SATELLITE, BY ANY DISTRIBUTOR FOR WHOM THE SIGNALS ARE NOT INTENDED. THERE IS EXCEPTION FOR SHORT EXCERPTS FROM CURRENT EVENTS REPORTS COMPATIBLE WITH "FAIR USE" PRACTICE. THERE IS ALSO EXCEPTION FOR DEVELOPING COUNTRIES FOR DISTRIBUTION OF PROGRAM-CARRYING SIGNALS, PROVIDING THAT DISTRIBUTION IS SOLELY FOR PURPOSE OF TEACHING, INCLUDING TEACHING IN THE FRAMEWORK OF ADULT EDUCATION, OR SCIENTIFIC RESEARCH. CONVENTION IS NOT TO PREJUDICE PROTECTION OF AUTHORS, PERFORMERS, PRODUCERS OF PHONOGRAMS, OR BROADCASTING ORGANIZATIONS, UNDER ANY DOMESTIC LAW OR INTERNATIONAL AGREEMENT. RESERVATION PERMITTED FOR ANY STATE SUCH AS U.S. OR CANADA THAT LIMITS OR DENIES PROTECTION AGAINST DISTRIBUTION BY CABLE SYSTEMS.

9. USDEL STATED IT AGREED IN PRINCIPLE WITH NEW DRAFT CONVENTION BUT WOULD HAVE TO RESERVE ITS POSITION BECAUSE OF NECESSITY TO CONSULT WITH ALL INTERESTED COPYRIGHT GROUPS IN U.S.

10. RESOLUTION WAS UNANIMOUSLY ADOPTED RECOMMENDING DIPLOMATIC CONFERENCE IN 1974.

11. USDEL BELIEVES NEW DRAFT CONVENTION IS SOUND BASIS FOR DEALING WITH A COMPLEX PROBLEM. ALL PRIVATE ADVISERS ON USDEL WERE IN GENERAL AGREEMENT WITH THIS VIEW.
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